

## **EXHIBIT 1**

### **INTRODUCTION**

Support Our Schools was a committee primarily formed in August 1996 to support the qualification and passage of Measure A, a Calaveras Unified School District bond measure, on the June 3, 1997 ballot. Fredda Miller was the treasurer of the committee, and Lorraine Weatherby was her backup. William L. Berry, of William Berry Campaigns, a political consultant, was the campaign manager.

The committee raised \$45,206 and spent over \$31,000 to support passage of Measure A. The vast bulk of the committee's expenditures went to William Berry Campaigns for campaign literature and professional services. Respondents failed to disclose any of this information before the election.

For the purposes of this Stipulation, the violations of the Political Reform Act (the "Act")<sup>1</sup> are stated as follows:

COUNT 1: Failure to file a Pre-election statement by April 24, 1997, in violation of Sections 84200.5 and 84200.8.

COUNT 2: Failure to itemize contributions and expenditures of \$100 or more on the committee's First Pre-election statement due April 24, 1997, in violation of Section 84211.

COUNT 3: Failure to file a Pre-election statement by May 22, 1997, in violation of Sections 84200.5 and 84200.8.

COUNT 4: Failure to file a late contribution report by May 30, 1997, in violation of Section 84203.

RESPONDENTS: Support Our Schools and Fredda Miller

### **SUMMARY OF THE LAW**

The purpose of campaign reporting under the Act is that "receipts and expenditures in election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and

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<sup>1</sup> The Political Reform Act is contained in sections 81000 through 91015 of the Government Code. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at section 18000, *et seq.* of Title 2 of the California Code of Regulations. All references to regulations are to Title 2, Division 6 of the California Code of Regulations unless otherwise indicated.

improper practices may be inhibited.” (Section 81002, subdivision (a).) Timely and truthful disclosure of the source of campaign contributions and of the identity of recipients of campaign expenditures is an essential part of the Act’s mandate.

In order to obtain disclosure of the true source of campaign contributions, Section 84211, subdivision (f) requires a committee to report on a campaign statement the full name, address, occupation, and employer of any person who contributes \$100 or more to the committee. Similarly, in order to ascertain the identity of recipients of campaign expenditures, Section 84211, subdivision (j) requires a committee to report on its campaign statements for each expenditure, the full name and address of the person to whom the expenditure was made, the amount of the expenditure, and a description of the consideration received for the expenditure.

Section 84200.5, subdivision (c) provides that all committees primarily formed to support or oppose a measure being voted upon in any number of jurisdictions within a county that has an election on a date other than in June or November of an even-numbered year, shall file Pre-election campaign statements according to a schedule set forth at Section 84200.8. Section 84200.8 requires such committees to file a First Pre-election statement no later than forty days before the election, for the period ending forty-five days before the election, and a Second Pre-election statement no later than twelve days before the election, for the period ending seventeen days before the election.

In order to notify the public of contributions of \$1,000 or more that are made to or received by committees during the crucial last two weeks before an election, Section 84203 provides that committees shall file late contribution reports. Section 84203 requires a committee that receives a late contribution to report the contribution within 24 hours of the time it is received. The late contribution report must include the name and address of both the contributor and the recipient, as well as the date and amount of the contribution. In order to constitute a late contribution, Section 82036 provides, in pertinent part, that the contribution(s) must aggregate \$1,000 or more, and be received by a primarily formed committee before the date of the election at which the measure is to be voted on, but after the closing date of the last campaign statement requested to be filed before the election.

Sections 84100 and 84104 make the treasurer of a committee responsible for seeing to it that campaign disclosure statements are filed by the committee in a timely manner.

## **SUMMARY OF THE FACTS**

Support Our Schools was a committee primarily formed in August 1996 to support the qualification and passage of Measure A, a Calaveras Unified School District bond measure. Fredda Miller was the treasurer of the committee, and Lorraine Weatherby was her backup. William L. Berry, of William Berry Campaigns, a political consultant, was the campaign manager. With the exception of a Statement of Organization, respondents failed to file any campaign disclosure statements before the election.

Measure A qualified for the ballot on January 28, 1997, the date the Calaveras School District called for the election. The election was held on June 3, 1997.

#### COUNT 1

Respondents were required to file a First Pre-election statement on April 24, 1997, reporting the committee's contributions and expenditures during the period January 1, 1997 through April 19, 1997. Respondents were also required to report, on the committee's First Pre-election statement, contributions received and expenditures made to support the qualification and passage of Measure A before it qualified for the ballot. Respondents failed to file a First Pre-election statement by April 24, 1997, thereby violating Sections 84200.5 and 84200.8. Respondents did not file the First Pre-election statement until July 10, 1997, which was 77 days after it was due. This deprived voters of information about \$24,249 in monetary contributions, \$12,369 in non-monetary contributions, and \$28,879 in expenditures until after the election.

#### COUNT 2

Respondents held a fundraiser in October 1996 for the purpose of supporting the qualification and passage of Measure A. Respondents were required to itemize contributions and expenditures of \$100 or more, received and made in connection with the fundraiser, on the committee's First Pre-election campaign statement. Respondents did not do so, and thereby violated Section 84211. Respondents ultimately itemized the contributions and expenditures on an amended statement filed on May 28, 1999, but that was two years after the election. As a result, the identity of over 90% of the committee's contributors was not disclosed to the voters prior to the election.

#### COUNT 3

Respondents were required to file a Second Pre-election statement, on May 22, 1997, reporting the committee's contributions and expenditures during the period April 20, 1997 through May 20, 1997. Respondents failed to file a Second Pre-election statement by May 22, 1997, thereby violating Sections 84200.5 and 84200.8. Respondents did not file the statement until July 10, 1997, which was 49 days after it was due. This deprived voters of information about \$5,910 in monetary contributions and \$19,724 in expenditures until after the election.

#### COUNT 4

On May 29, 1997, the committee received a \$2,000 contribution, in the form of a loan from the treasurer's husband, Fred Miller. This contribution was a late contribution, as it was made during the last two weeks prior to the election, and therefore should have been reported in a late contribution report, which must be filed within 24 hours of the committee receiving the contribution. As the committee did not file a late contribution report by May 30, 1997, disclosing the \$2,000 contribution, respondents violated Section 84203.

### ADDITIONAL INFORMATION

Deborah A. Smith, Elections Coordinator for Calaveras County, told Commission investigators that she contacted respondent Miller and advised her of the committee's filing requirements, once it was brought to her attention that the committee may have raised or expended more than \$1,000 in connection with the election. The campaign statements filed in July 1997, described in Counts 1 and 3, were filed as a result of her intervention. As a result of the late filings, the Calaveras County Clerk-Recorder imposed a late filing fee of \$1,260, which the committee paid on December 12, 1997.

The committee retained a seasoned political consultant, William L. Berry, to serve as its campaign manager. There is some dispute over Mr. Berry's role with respect to the committee's campaign reporting obligations. Respondent Miller, Assistant Treasurer Weatherby, and Calaveras Unified School District Superintendent James Frost told Commission Investigator Dan Schek that they believed Mr. Berry was responsible for filing campaign statements, and that they relied entirely upon Mr. Berry's advice and guidance. The evidence corroborated their statements, in part. On August 14, 1997, Mr. Berry filed a Statement of Organization with the Secretary of State, in which he listed himself as the committee treasurer. In a letter from Mr. Berry to the Elections Coordinator, dated September 16, 1997, Mr. Berry stated that the late filings were the result of a miscommunication, and that he assumed full responsibility for the committee's failure to timely file campaign statements.

In his interview with Commission Investigator Dan Schek, however, Mr. Berry denied assuming any such responsibility for the committee's filing obligations. He produced the Agreement for Campaign Management Services entered into by William Berry Campaigns and Support Our Schools. Section 3 of the Agreement, entitled "Client's Responsibilities," expressly provided that the client was responsible for obtaining a competent and responsible campaign treasurer, and complying with all applicable campaign finance laws and filing requirements. Apart from the Statement of Organization, described above, Mr. Berry did not file any other campaign statements on behalf of the committee.

### **CONCLUSION**

This matter consists of four counts, which carries a maximum possible penalty of Eight Thousand Dollars (\$8,000). There was significant public harm in this case. Respondents did not file any campaign disclosure statements until after the election. As a result, the public was denied important information about the identity of the committee's contributors and the conduct of the campaign. Measure A passed.

In mitigation, the evidence established that the violations were not intentional, but negligent, and may have been the result of a misunderstanding between the executive committee members and Mr. Berry regarding which individual was to be responsible for the committee's filing obligations. Respondents promptly filed their statements upon notification from the county clerk, and paid a

substantial fee to the clerk for the late filings. None of the respondents have any history of prior enforcement actions being taken against them. The facts of the case therefore justify imposition of the agreed upon fine of Six Thousand Dollars (\$6,000).